

REMARKS

Review and reconsideration of the non-final Office Action mailed May 28, 2008 (hereinafter Office Action), is respectfully requested in view of the foregoing amendments and the following remarks. The Commissioner is hereby authorized to charge the \$60 fee for a retroactive one-month extension of time and the \$25 fee for one dependent claim in excess of 20 total claims to Deposit Account No. 50-0951.

In the Office Action, claims 30, 32-38 and 40 were pending, with claims 30, 32-34, 36-38 & 40 being rejected under 35 U.S.C. §§102(b) or 102(e) and claim 35 objected to for dependence on a rejected base claim. By this Amendment, Applicants amend claims 30, 38 and 40, and add new claims 41-52. No new matter is added.

Amendments to the Claims

Amended claims 30, 38 and 40 now include the limitation that two or more cut surfaces are produced simultaneously in a predetermined arrangement relative to one another. Support for this subject matter can be found throughout the specification including, but not limited to, paragraph [0022]-[0023].

New independent claim 41 is drawn to the subject matter of claim 35, which was previously indicated as being allowable except for dependence on a rejected base claim. New claim 42 is drawn to the canceled subject matter of independent claim 30, *i.e.*, the energy range of each laser pulse.

New claims 43-51 are drawn to the subject matter of previously cancelled claims 20 and 22-29. As indicated in the previous Office Action, these claims were canceled only to expedite prosecution of the case to allowance. New claim 52 is drawn to the pulse energy limitation also found in claim 42. No new matter is added.

Claim Rejections – 35 U.S.C. §102

In the Office Action, claims 30 and 32 are rejected under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent No. 6,322,556 issued to Gwon *et al.* (hereinafter “Gwon”). The Office Action asserts that Gwon discloses a method for the treatment of eye lenses, wherein a cut surface is produced inside the crystalline lens of the eye using multiple laser pulses, wherein the

energy of the laser pulses is between 1 nJ and about 1mJ. The Office Action also asserts that Gwon disclosed that the portion of the lens tissue removed by the laser pulses is less than about 100µm.

In the Office Action, claims 30, 32, 34, 36-38 and 40 are rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent Application Publication No. 2005/0107773 filed by Bergt *et al.* (hereinafter "Bergt"). The Office Action asserts that Bergt discloses an ophthalmic laser system and method of use for the treatment of ocular disorders such as presbyopia, the method comprising: directing laser pulses to the crystalline lens of the eye to form targeted cuts in the lens to improve elasticity of the eye's lens, wherein pulse energy of the laser pulses is between 100nJ and 100µm.

The claimed method as set forth in claim 30 is drawn to:

30. (Currently amended) A method for the treatment of an eye lens, wherein a cut surface is produced inside the crystalline eye lens using multiple laser pulses, ~~wherein the pulse energy of each of the laser pulses is limited to a range from 1pJ to 1 µJ and wherein two or more cut surfaces are produced simultaneously in a predetermined arrangement relative to one another.~~

In particular, the method includes simultaneously producing two or more cut surfaces inside the crystalline eye lens. The cut surfaces are produced in a predetermined arrangement relative to one another.

Applicants have discovered that with each cut surface in the eye lens, the distribution of tensile or compressive stresses within the eye lens changes, which can result in geometric changes to the eye lens. These geometric changes can cause problems when a predetermined set of sequential cuts. This newly identified problem can be addressed by simultaneously producing the two or more cut surfaces used to treat the eye lens. Thus, the risk of errors due to geometric changes of the eye lens after one or more cuts have been made is reduced or eliminated.

Applicants note that Gwon is clearly drawn to ablation, rather than formation of cuts. Applicants note that neither Gwon nor Bergt disclose or suggest forming two or more cut surfaces simultaneous. In addition, where multiple cut surfaces are described, both Gwon and Bergt disclose that such cut surfaces are made sequentially. For example, the Bergt process is described as providing adjacent laser pulses along a predetermined path. This description is

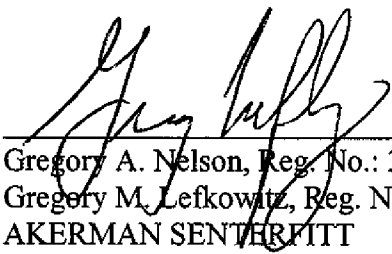
completely inconsistent with the claimed subject matter. Clearly, neither Gwon nor Bergt disclose or suggest the claimed subject matter.

Conclusion

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned (Greg Lefkowitz – 561-671-3624 direct-line) if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

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